

ENTERED

September 29, 2021

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DELWIN L. HARRISON,

Plaintiff,

VS.

FOREMAN OF THE GRAND JURY, *et al.*,

Defendants.

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CIVIL ACTION NO. 4:21-2399

ORDER OF DISMISSAL

Plaintiff Delwin L. Harrison filed this lawsuit complaining of civil rights violations by Montgomery County officials. On July 28, 2021, the Clerk issued a notice of deficient pleading instructing Harrison to either pay the \$402 filing fee or to submit a motion to proceed *in forma pauperis* (Dkt. 4). The notice warned Harrison that, if he failed to comply within 30 days, his case could be dismissed for want of prosecution. The Clerk supplied Harrison with a copy of the form motion.

Harrison's copy of the order was mailed to the Montgomery County Jail but was returned to the Court on August 3, 2021, as undeliverable (Dkt. 5). On that same day, the Court re-mailed the notice to an address supplied by Harrison on his return envelope.

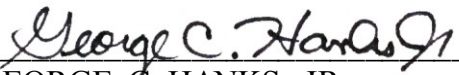
To date, Harrison has not paid the filing fee or submitted a motion for leave to proceed *in forma pauperis*. Under the inherent powers necessarily vested in a district court to manage its own affairs, the Court determines that dismissal for want of prosecution is appropriate. *See* FED. R. CIV. P. 41(b); *Gates v. Strain*, 885 F.3d 874 (5th Cir. 2018); *Nottingham v. Warden, Bill Clements Unit*, 837 F.3d 438, 440–41 (5th Cir.

2016) (a district court may dismiss an action *sua sponte* for failure to prosecute an action or to comply with court orders). However, relief from this order may be granted if Harrison makes a proper showing under Rule 60(b) of the Federal Rules of Civil Procedure. At a minimum, a proper showing under Rule 60(b) includes payment or submission of the motion to proceed *in forma pauperis*, as previously instructed.

The Court **ORDERS** that this case is **DISMISSED without prejudice**. All pending motions, if any, are denied as moot.

The Clerk will provide a copy of this order to the plaintiff.

SIGNED at Houston, Texas, this 29th day of September, 2021.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE